IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.5633 OF 2005

Shamsher Ali Haji Mohd. Khan ...Applicant

vs.

State of Maharashtra & ors. ...Respondents

Mr.M.P.S.Tiwari and Mr.K.M.Yadav for the Applicant
Mr.S.R.Shinde, A.P.P. for State.

CORAM: A.S.OKA,J.
DATE : DECEMBER 1,2006.

P.C.:

1. Heard Advocate for the Applicant and the learned A.P.P. for State. The Applicant has filed a private complaint alleging commission of offences under sections 323, 324, 352 read with section 34 of the Indian Penal Code. The learned Metropolitan Magistrate passed an order directing the concerned Police Station to make an investigation under section 202 of the Code of Criminal Procedure, 1973. By order dated 4th January 2005, the learned Metropolitan Magistrate after considering the material on record and the report of the police dismissed the complaint by exercising power under section 203 of the said Code. A revision Application was filed by the Applicant before the Sessions Court which has been dismissed on merits.

2. After having considered the submissions made by the

learned Advocate for the Applicant, I find that there is no merit in the challenge to the order of the learned Magistrate. The Police have already registered a C.R. on 30th July 2003 for the alleged offence. The case of the Applicant/complainant is that the private complaint relates to the second offence committed by the accused on the same day. The Courts below have considered the verification statement of the Applicant and have come to the conclusion that the incident referred to in the complaint is the same incident on the basis of which a C.R. is already registered. The submission of the Applicant was that on the same day in the night the Applicant was assaulted. After considering the report of the police and the verification statement, the Courts below have found that there was only one incident which has taken place on 30th July 2003 for which an offence has been already registered.

3. No case is made out for interference. Application is rejected.

JUDGE